

**1717. Misbranding of spaghetti and macaroni. U. S. v. 34 Cases of Spaghetti and 199 Cases of Macaroni. Decree of condemnation. Product ordered released for repacking. (F. D. C. No. 2332. Sample Nos. 5671-E, 5672-E.)**

The spaghetti occupied about 44 percent of the capacity of its package and the macaroni about 78 percent of the capacity of its package.

On July 9, 1940, the United States attorney for the Eastern District of Tennessee filed a libel against 34 cases of spaghetti and 199 cases of macaroni at Chattanooga, Tenn., alleging that the articles had been shipped in interstate commerce on or about June 14, 1940, by the Kentucky Macaroni Co. from Louisville, Ky.; and charging that they were misbranded in that their containers were so made, formed, or filled as to be misleading. The articles were labeled in part: "Colonial Brand Spaghetti [or "Elbow Macaroni"] Distributed by C. B. Ragland Co."

On July 23, 1940, the Kentucky Macaroni Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released to the claimant for repacking in packages meeting all requirements of the law.

### FEED

**1718. Adulteration and misbranding of alfalfa meal. U. S. v. The Lamar Alfalfa Milling Co., a corporation. Case tried to a jury. Verdict of guilty. Fine, \$300. (F. D. C. No. 2868. Sample No. 18488-E.)**

This product was represented to consist wholly of alfalfa meal; whereas it consisted in part of alfalfa stem meal. It contained less protein and more crude fiber than were declared.

On October 31, 1940, the United States attorney for the District of Colorado filed an information against the Lamar Alfalfa Milling Co., Lamar, Colo., alleging shipment on or about May 31, 1940, from the State of Colorado into the State of Kansas of a quantity of alfalfa meal that was adulterated and misbranded.

The article was alleged to be adulterated in that alfalfa stem meal had been substituted in part for alfalfa meal, which it purported to be.

It was alleged to be misbranded in that the statements, "Alfalfa Meal" and "Protein not less than 13 percent \* \* \* Fibre, not more than 33 percent," borne on the tags attached to the sacks, were false and misleading in that they represented that the article consisted wholly of alfalfa meal and contained not less than 13 percent of protein and not more than 33 percent of fiber; whereas it consisted in part of alfalfa stem meal, and contained not more than 11.63 percent of protein, and not less than 35.30 percent of fiber.

On February 26, 1941, the case was tried to a jury which rendered a verdict of guilty. On March 1, 1941, the defendant's motion to set aside the verdict and for a new trial was overruled without opinion, and the court imposed a fine of \$300.

**1719. Misbranding of cottonseed feed. U. S. v. Red River Cotton Oil Co., Inc. Plea of guilty. Fine, \$150. (F. D. C. No. 2098. Sample No. 5985-D.)**

This product contained a smaller percentage of protein than that declared on the label.

On August 1, 1940, the United States attorney for the Western District of Louisiana filed an information against the Red River Cotton Oil Co., Inc., Alexandria, La., alleging shipment on or about February 21, 1940, from the State of Louisiana into the State of Texas of a quantity of cottonseed feed that was misbranded.

The article was alleged to be misbranded in that the statements "41.12% Protein Ground Cotton Seed Feed \* \* \* Guaranteed Analysis Crude Protein not less than 41.12 percent," borne on the tags attached to the sacks containing it, were false and misleading since it contained less than 41.12 percent, namely, not more than 37.90 percent of crude protein.

On December 6, 1940, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$150.

**1720. Misbranding of whole pressed cottonseed feed. U. S. v. Washington Cotton Oil Mill, Inc. Plea of guilty. Fine, \$25. (F. D. C. No. 2845. Sample No. 5986-D.)**

This product contained a smaller proportion of crude protein and a larger proportion of crude fiber than those declared.

On October 22, 1940, the United States attorney for the Western District of Louisiana filed an information against the Washington Cotton Oil Mill, Inc.,

Washington, La., alleging shipment on or about February 23, 1940, from the State of Louisiana into the State of Texas of a quantity of cottonseed feed that was misbranded. The article was labeled in part: (Tag) "Whole Pressed Cotton Seed \* \* \* Manufactured For and Guaranteed by Louis Tobian & Co., Dallas, Texas."

It was alleged to be misbranded in that the statements "Crude Protein not less than 28 percent \* \* \* Crude Fiber not more than 23 percent," borne on the tag attached to the sacks, were false and misleading since it contained not more than 25.55 percent of crude protein and not less than 26.52 percent of crude fiber.

On January 28, 1941, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$25.

**1721. Adulteration and misbranding of dairy feed. U. S. v. 92 Bags of Dairy Ration. Default decree of condemnation. (F. D. C. No. 4030. Sample No. 17482-E.)**

This product did not contain certain ingredients declared on the label.

On March 26, 1941, the United States attorney for the Northern District of West Virginia filed a libel against 92 bags of dairy ration at Pennsboro, W. Va., alleging that the article had been shipped in interstate commerce on January 10, 1941, by the Herman-McLean Co. from Monroeville, Ohio; and charging that it was adulterated and misbranded. It was labeled in part: (Tag) "100 Lbs. Net Ohio 16% Dairy Ration \* \* \* Ingredients: Cottonseed Meal, Corn Gluten Feed, Soft Winter Wheat Bran, Brewers Grains, Coconut Oil Meal, Soya Bean Oil Meal, Alfalfa Meal, 10% Ground Wheat and Flax Screenings, 10% Oat Mill Feed, Cane Molasses, 1% Calcium Carbonate, 1% Salt."

The article was alleged to be adulterated in that cottonseed meal, corn gluten feed, brewers' grains, coconut oil meal, or oat mill feed, valuable constituents, had been in whole or in part omitted therefrom.

It was alleged to be misbranded in that the following statement was false and misleading, "Ingredients: Cottonseed Meal, Corn Gluten Feed \* \* \* Brewers Grains, Coconut Oil Meal \* \* \* 10% Oat Mill Feed," since it was incorrect.

On April 29, 1941, no claimant having appeared, judgment of condemnation was entered and it was ordered that the 92 bags covered by the libel be destroyed, but that 66 bags which had been seized but which were not covered by the libel be released to the owner.

## DAIRY PRODUCTS

### BUTTER

Nos. 1722 to 1726, inclusive, report the institution of criminal proceedings and the judgment entered in actions based on shipments of butter which contained less than 80 percent by weight of milk fat. (The act of Congress defining butter and providing a standard therefor, which is made applicable to the provisions of this act, requires that butter shall contain not less than 80 percent by weight of milk fat.)

**1722. Adulteration of butter and poultry. U. S. v. Oliver G. Harp (O. G. Harp Poultry & Egg Co.). Plea of guilty. Fine, \$175 and costs. (F. D. C. No. 2077. Sample Nos. 55173-D, 55175-D, 55305-D, 68465-D, 85738-D, 85739-D, 85740-D, 89409-D.)**

This case also involved shipments of chickens, fowls, and turkeys which were in part emaciated and diseased.

On August 13, 1940, the United States attorney for the Western District of Oklahoma filed an information against Oliver G. Harp, trading as O. G. Harp Poultry & Egg Co. at Shawnee, Okla., alleging shipment within the period from on or about August 7 to on or about December 8, 1939, from the State of Oklahoma into the States of Illinois and New York of quantities of butter and poultry that were adulterated.

The butter was alleged to be adulterated in that a valuable constituent, milk fat, had been in part omitted therefrom; and in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

The poultry was alleged to be adulterated in that it was in whole or in part the product of diseased animals, namely, diseased poultry.

On October 11, 1940, the defendant having entered a plea of guilty, the court imposed a fine of \$175 and costs.